

## VIRGINIA:

## BEFORE THE VIRGINIA GAS AND OIL BOARD

SUPPLEMENTAL ORDER REGARDING DOCKET NO. VGOB-97-0218-0564  
ELECTIONS, UNIT: U-28  
(herein "Subject Drilling Unit")

REPORT OF BOARDFINDINGS AND ORDER

1. This Supplemental Order is entered by the Board *sua sponte* in the form authorized by the Board at its hearing held at 9:00 a.m. on March 18, 1997, Dickenson Conference Room, Southwest Virginia Education 4-H Center, Abingdon, Virginia, and pursuant to authority granted to the Board's Chairman at the hearing of the Virginia Gas and Oil Board on June 16, 1992, at 9:00 a.m. at the Rhododendron Restaurant at the Breaks Interstate Park, Breaks, Virginia; and this Supplemental Order is being recorded for the purpose of (1) complying with the requirements of § 7.C of the Virginia Gas and Oil Board Regulations, VR 480-05-22.2 by supplementing the Order previously issued by the Board for subject Docket on July 16, 1997 and recorded at Deed Book 465, Page 7 in the office of the Clerk of Garden District, Buchanan, County, Virginia on July 29, 1997 (herein "Board Order") to complete the record regarding elections. The Board Order pooled all interests in Subject Drilling Unit including those of the Respondents more particularly set forth and identified by the Designated Operator in the affidavits attached hereto and made a part hereof. The Board finds it has jurisdiction over the subject matter pursuant to the provisions of the Virginia Gas and Oil Act, § 45.1-361.1 et seq., Virginia Code, 1950 as amended.

2. Findings: The Board finds that:

(a). The Board Order directed Consol, Inc., (herein the "Designated Operator"), to mail copies of the Board Order to all Respondents whose interests, if any, were pooled by said Board Order;

(b). The Designated Operator filed its affidavit of mailing, disclosing that it had mailed a true and correct copy of the Board's Order to all Respondents whose interests, if any, were pooled by said Board Order;

(c). The Board Order required each Respondent whose interests, if any, were pooled by the terms of said Board Order to make his or her election within thirty (30) days after the date of mailing or recording, as applicable, of said Order; the Designated Operator has filed its affidavit, in accordance with § 7.c of the Virginia Gas and Oil Board Regulations and VR 480-05-22.2 (herein "Affidavit of Election"), wherein it has, for each Respondent whose interests, if any, were pooled by said Board Order, stated: (i) whether each Respondent has made or failed to make a timely election; (ii) the nature of the election made, if any; (iii) whether, by reason of a failure to elect or to timely elect one or more Respondents are deemed, under the terms of the Board's Order, to have leased all their rights, title, interests, estates and claims in Subject Drilling Unit to the Designated Operator;

(d). The Board Order further required the Designated Operator, after expiration of the election period, to file with the Board a statement of the interests subject to escrow under the terms and provisions of the Board Order, in light of the elections made or deemed to have been made (herein "Statement of Interests"); that the Designated Operator furnished said Statement of Interests as part of its Affidavit of Election. A copy of which is attached hereto as Exhibit A.

(e). Current Board standards requiring the escrow of funds and the Board's agreement with its Escrow Agent, Tazewell National Bank, Trust Department, c/o Premier Bankshares Corporation, 29 College Drive, P.O. Box 1199, Bluefield, VA 24605, or any successor named by the Board, require the entry of a Supplemental Order establishing of record the elections made or deemed to have been made and specifying the sums or percentage thereof subject to escrow.

3. **Order:** By this Order, the Board orders the Designated Operator to tender, consistent with and in accordance with the findings set forth at paragraph 2. above and the annexed Affidavits, any funds subject to escrow and instructs the Escrow Agent, Tazewell National Bank, Trust Department, c/o Premier Bankshares Corporation, 29 College Drive, P.O. Box 1199, Bluefield, VA 24605, or any successor named by the Board to establish interest-bearing escrow account(s), IRS Tax Identification Number 54-1629506, in accordance with the information set forth in said Affidavits to receive such funds and account to the Board therefore.

4. **Mailing of Order and Filing of Affidavit:** The Designated Operator under the captioned Order or its Attorney shall file an affidavit with the Secretary of the Board within ten (10) days after the date of receipt of this Order stating that a true and correct copy of this Order was mailed within seven (7) days from the date of receipt of this Order to each person whose interest or claim is subject to escrow and whose address is known.


5. **Conclusion:** Therefore, the findings and all terms and provisions set forth above be and hereby are granted and IT IS SO ORDERED.

6. **Effective Date:** This Order shall be effective on the date of its execution.

DONE AND EXECUTED this 2nd day of October, 1997, by a majority of the Virginia Gas and Oil Board.


  
Chairman, Benny R. Wampler

DONE AND PERFORMED THIS 2nd day of October, 1997, by Order of this Board.

  
Byron Thomas Fulmer  
Principal Executive to the Staff  
Virginia Gas and Oil Board

STATE OF VIRGINIA )  
COUNTY OF WISE )

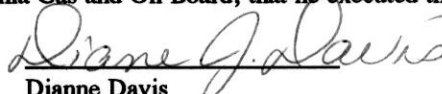
Acknowledged on this 2nd day of October, 1997, personally before me a notary public in and for the Commonwealth of Virginia, appeared Benny Wampler, being duly sworn did depose and say that he is Chairman of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.

  
Susan G. Garrett  
Notary Public

My commission expires 7/31/98

STATE OF VIRGINIA       )  
COUNTY OF WASHINGTON   )

Acknowledged on this 2nd day of October, 1997, personally before me a notary public in and for the Commonwealth of Virginia, appeared Bryon Thomas Fulmer, being duly sworn did depose and say that he is Principal Executive to the Staff of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.

  
Dianne Davis  
Notary Public

My commission expires 9/30/2001

VIRGINIA:

Exhibit A

## BEFORE THE VIRGINIA GAS AND OIL BOARD

IN RE:

Application of Consol, Inc. for Forced Pooling of Interests in Unit Number U-28 VGOB Docket No. 97-0218-0564 in the Garden District of Buchanan County, Virginia

## AFFIDAVIT OF CONSOL, INC. (herein "Designated Operator") REGARDING ELECTIONS, ESCROW AND SUPPLEMENTAL ORDER

Leslie K. Arrington (herein Affiant), being first duly sworn on oath, deposes and says:

1. That your Affiant is employed by Consol, Inc., the Designated Operator, at its office located at P.O. Box 947 Bluefield, VA 24605, that your Affiant is the Designated Operator's Permit Specialist, and is authorized for give this Affidavit in its behalf;
2. That the Order entered on July 16, 1997, by the Virginia Gas and Oil Board regarding the captioned CBM Unit required the Applicant to mail a true and correct copy of said Order to each person pooled by said Order;
3. That within seven (7) days of the receipt of an executed copy of the Order referred to at Paragraph 2. above, your Affiant caused a true and correct copy of said Order to be mailed via the United States Postal Service to each Respondent named in the captioned Application, whose address was known, and to all persons, if any, who were added as Respondents at the hearing held in the captioned matter; that annexed hereto and incorporated herein are copies of the letters of transmittal, receipts for certified mail, and return receipts pertaining to said mailing;
4. That the Order of the Virginia Gas and Oil Board in the captioned matter required all persons pooled thereby to tender their written elections to the Unit Operator within thirty (30) days of the date said Order was recorded in the county above named; that said Order was recorded on July 24, 1997.
5. That the Designated Operator, Consol, Inc., has established procedures to review all mail received and all written documents received by means other than by mail to ascertain whether parties whose interests have been pooled have made a written election, in a timely fashion, as required by the captioned Order; that said procedures were followed to identify the elections, if any, made with regard to Subject Unit; that the following persons delivered, by mail or otherwise, written elections to the Unit Operator, within the thirty day election period:

None.
6. That the interests and/or claims of the following persons (who made timely elections, or who are deemed under the terms of the Board's Order to have leased, or who, subsequent to the pooling hearing held in the captioned matter, have leased or otherwise entered into an agreement with the Designated Operator are subject to escrow under the Board's Order pooling the captioned Unit, Board Regulations and the Code of Virginia;

SEE ATTACHED SHEET

7. That after the pooling hearing held in the captioned matter, the following persons have leased or entered into a voluntary agreement with the Designated Operator with regard to their interests and/or claims which are not subject to escrow and should, therefore, be dismissed as Respondents:

None

8. That pursuant to the provisions of VR 480-05-22.27.C and VR 480-05-22.2.8, annexed hereto and incorporated herein is a proposed supplemental order to be entered to complete the record regarding elections; (See Exhibit "B-3"), that said annexed supplemental order sets forth and identifies the conflicting claims and/or interests which require escrow of funds pursuant to the terms of §§ 45.1-361.21.D, 45.1-361.22.A.3 and 4.; (See Exhibit "E").

Dated at Bluefield, Virginia, this 3<sup>RD</sup> day of SEPTEMBER, 1997.

Leslie K. Arrington  
Affiant

Taken, subscribed and sworn to before me by Leslie K. Arrington, the Permit Specialist, of Consol, Inc., a corporation, on behalf of the corporation, this 3<sup>rd</sup> day of September, 1997.

My commission expires: 10/31/97

Rhonda L. Cantunght  
Notary



**UNIT U-28**  
**Jocket # VGOB-97/02/18-0564**  
**Exhibit B-3**  
**List of Unleased Owners/Claimants**

		Division of Interest in			
	Net Acres in Unit	Interest in Unit	2 Left 12.3699%	3 Left 27.5653%	4 Left 3.2092%
<b>I. OIL &amp; GAS FEE OWNERSHIP</b>					
<b>Tract No. 1, 24.64 Acre Tract</b>					
(3) Walter Wade Heirs					
(a) Eunice Wade Baldwin P. O. Box 111 Doran. VA 24612	0.821 acres 1/30 of 24.64 acres	1.0267%	0.1270%	0.2830%	0.0329%
(b) Stella Wade Gillespie 437 1/2 Brown Street Richlands, VA 24641	0.821 acres 1/30 of 24.64 acres	1.0267%	0.1270%	0.2830%	0.0329%
(c) Glayds Wade Boyd P. O. Box 374 Cedar Bluff, VA 24609	0.821 acres 1/30 of 24.64 acres	1.0267%	0.1270%	0.2830%	0.0329%
(d) Vinnie Wade Newberry 17339 Days Point Road Smithfield, VA 23430	0.821 acres 1/30 of 24.64 acres	1.0267%	0.1270%	0.2830%	0.0329%
(e) Eady Wade Smith Heirs					
i. Lula Smith Robins Rt. 3, Box 277-M Cedar Bluff, VA 24609	0.164 acres 1/150 of 24.64 acres	0.2053%	0.0254%	0.0566%	0.0066%
ii. Tom C. Smith P. O. Box 335 Doran. VA 24612	0.164 acres 1/150 of 24.64 acres	0.2053%	0.0254%	0.0566%	0.0066%
iii. Dolphus Smith 905 Big Creek Road Richlands, VA 24641	0.164 acres 1/150 of 24.64 acres	0.2053%	0.0254%	0.0566%	0.0066%
iv. Raymond S. Smith P. O. Box 335 Doran. VA 24612	0.164 acres 1/150 of 24.64 acres	0.2053%	0.0254%	0.0566%	0.0066%
v. Luther Smith General Delivery Doran. VA 24612	0.164 acres 1/150 of 24.64 acres	0.2053%	0.0254%	0.0566%	0.0066%
(4) Myrty N. Ratliff Heirs, Devisees, Successors or Assigns Address Unknown	4.928 acres 1/5 of 24.64 acres	6.1600%	0.7620%	1.6980%	0.1977%
(5) Mona Webb Heirs, Devisees,					
(a) Harman Webb 106 3rd Avenue Richlands, VA 24641	0.70 acres 1/35 of 24.64 acres	0.8800%	0.1089%	0.2426%	0.0282%
(b) John Webb P. O. Box 577 Keen Mountain, VA 24624	0.70 acres 1/35 of 24.64 acres	0.8800%	0.1089%	0.2426%	0.0282%
(c) Virginia W. Cole P. O. Box 59 Whitewood, VA 24657	0.70 acres 1/35 of 24.64 acres	0.8800%	0.1089%	0.2426%	0.0282%

**UNIT U-28**  
**Docket # VGOB-97/02/18-0564**  
**Exhibit B-3**  
**List of Unleased Owners/Claimants**

		Net Acres in Unit	Interest in Unit	Division of Interest in		
				2 Left 12.3699%	3 Left 27.5653%	4 Left 3.2092%
(d)	Emma R. Hurbert 7001 Union Avenue Cleveland, OH 44105	0.70 acres 1/35 of 24.64 acres	0.8800%	0.1089%	0.2426%	0.0282%
(e)	Ruby W. Wells 6004 Engel Avenue Cleveland, OH 44127	0.70 acres 1/35 of 24.64 acres	0.8800%	0.1089%	0.2426%	0.0282%
(f)	Robert W. Casey P. O. Box 45 Shortt Gap, VA 24647	0.70 acres 1/35 of 24.64 acres	0.8800%	0.1089%	0.2426%	0.0282%
Tract No. 11, 0.12 Acre Tract						
(1)	Larry Stacy Rt. 1, Box 162 Raven, VA 24639	0.12 acres	0.1500%	0.0186%	0.0413%	0.0048%

UNIT U-28  
Docket # VGOB-97/02/18-0564  
Exhibit E  
List of Conflicting Owners/Claimants

	Net Acres in Unit	Interest in Unit	Division of Interest in		
			2 Left 12.3699%	3 Left 27.5653%	4 Left 3.2092%
<b>Tract No. 1, 24.64 Acre Tract</b>					
<b><u>COAL FEE OWNERSHIP</u></b>					
(1) Yukon Pocahontas Coal Co. Tr. 110 P. O. Box 187 Tazewell, VA 24651	14.78 acres 3/5 of 24.64 acres	18.4800%	2.2860%	5.0941%	0.5931%
<b><u>OIL &amp; GAS FEE OWNERSHIP</u></b>					
(1) Walter Wade Heirs					
(a) Carl Wade P. O. Box 23 Shortt Gap, VA 24647	0.82 acres 1/30 of 24.64 acres	1.0267%	0.1270%	0.2830%	0.0329%
(b) Eunice Wade Baldwin P. O. Box 111 Doran. VA 24612	0.82 acres 1/30 of 24.64 acres	1.0267%	0.1270%	0.2830%	0.0329%
(c) Stella Wade Gillespie 437 1/2 Brown Street Richlands, VA 24641	0.82 acres 1/30 of 24.64 acres	1.0267%	0.1270%	0.2830%	0.0329%
(d) Glayds Wade Boyd P. O. Box 374 Cedar Bluff, VA 24609	0.82 acres 1/30 of 24.64 acres	1.0267%	0.1270%	0.2830%	0.0329%
(e) Vinnie Wade Newberry 17339 Days Point Road Smithfield, VA 23430	0.82 acres 1/30 of 24.64 acres	1.0267%	0.1270%	0.2830%	0.0329%
(f) Eady Wade Smith Heirs					
i. Lula Smith Robins Rt. 3, Box 277-M Cedar Bluff, VA 24609	0.16 acres 1/150 of 24.64 acres	0.2053%	0.0254%	0.0566%	0.0066%
ii. Tom C. Smith P. O. Box 335 Doran. VA 24612	0.16 acres 1/150 of 24.64 acres	0.2053%	0.0254%	0.0566%	0.0066%
iii. Dolphus Smith 905 Big Creek Road Richlands, VA 24641	0.16 acres 1/150 of 24.64 acres	0.2053%	0.0254%	0.0566%	0.0066%
iv. Raymond S. Smith P. O. Box 335 Doran. VA 24612	0.16 acres 1/150 of 24.64 acres	0.2053%	0.0254%	0.0566%	0.0066%
v. Luther Smith General Delivery Doran. VA 24612	0.16 acres 1/150 of 24.64 acres	0.2053%	0.0254%	0.0566%	0.0066%
(2) Myrty N. Ratliff Heirs, Devisees, Successors or Assigns Address Unknown	4.93 acres 1/5 of 24.64 acres	6.1600%	0.7620%	1.6980%	0.1977%



UNIT U-28  
Docket # VGOB-97/02/18-0564  
Exhibit E  
List of Conflicting Owners/Claimants

			Divison of Interest in		
	Net Acres in Unit	Interest in Unit	2 Left 12.3699%	3 Left 27.5653%	4 Left 3.2092%
(3) Mona Webb Heirs, Devisees,					
(a) Harold Webb 298 Morrell Town Rd. Bristol, TN 37620	0.70 acres 1/35 of 24.64 acres	0.8800%	0.1089%	0.2426%	0.0282%
(b) Harman Webb 106 3rd Avenue Richlands, VA 24641	0.70 acres 1/35 of 24.64 acres	0.8800%	0.1089%	0.2426%	0.0282%
(c) John Webb P. O.Box 577 Keen Mountain, VA 24624	0.70 acres 1/35 of 24.64 acres	0.8800%	0.1089%	0.2426%	0.0282%
(d) Virginia W. Cole P. O. Box 59 Whitewood, VA 24657	0.70 acres 1/35 of 24.64 acres	0.8800%	0.1089%	0.2426%	0.0282%
(e) Emma R. Hurbert 7001 Union Avenue Cleveland, OH 44105	0.70 acres 1/35 of 24.64 acres	0.8800%	0.1089%	0.2426%	0.0282%
(f) Ruby W. Wells 6004 Engel Avenue Cleveland, OH 44127	0.70 acres 1/35 of 24.64 acres	0.8800%	0.1089%	0.2426%	0.0282%
(g) Robert W. Casey P. O. Box 45 Shortt Gap, VA 24647	0.70 acres 1/35 of 24.64 acres	0.8800%	0.1089%	0.2426%	0.0282%

**Tract No. 5, 1.23 Acre Tract**

**COAL FEE OWNERSHIP**

(1) Hugh MacRae Land Trust Tr. 17 P. O. Box 29 Tazewell, VA 24651	1.23 acres	1.5375%	0.1902%	0.4238%	0.0493%
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**OIL & GAS FEE OWNERSHIP**

(1) Gussie Johnson Rt. 1 Box 165 Raven, VA 24639	1.23 acres	1.5375%	0.1902%	0.4238%	0.0493%
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**Tract No. 6, 0.75 Acre Tract**

**COAL FEE OWNERSHIP**

(1) Hugh MacRae Land Trust Tr. 17 P. O. Box 29 Tazewell, VA 24651	0.75 acres	0.9375%	0.1160%	0.2584%	0.0301%
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**OIL & GAS FEE OWNERSHIP**

(1) Kathy Looney Rt. 1 Box 162A Raven, VA 24639	0.75 acres	0.9375%	0.1160%	0.2584%	0.0301%
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UNIT U-28  
Docket # VGOB-97/02/18-0564  
Exhibit E  
List of Conflicting Owners/Claimants

BOOK 469 PAGE 225

			Divison of Interest in		
	Net Acres in Unit	Interest in Unit	2 Left 12.3699%	3 Left 27.5653%	4 Left 3.2092%
<b>Tract No. 7, 0.49 Acre Tract</b>					
<b><u>COAL FEE OWNERSHIP</u></b>					
(1) Hugh MacRae Land Trust Tr. 17 P. O. Box 29 Tazewell, VA 24651	0.49 acres	0.6125%	0.0758%	0.1688%	0.0197%
<b><u>OIL &amp; GAS FEE OWNERSHIP</u></b>					
(1) Selma June Mullins Box 492 Keen Mountain, VA 24624	0.49 acres	0.6125%	0.0758%	0.1688%	0.0197%
<b>Tract No. 8, 5.18 Acre Tract</b>					
<b><u>COAL FEE OWNERSHIP</u></b>					
(1) Hugh MacRae Land Trust Tr. 17 P. O. Box 29 Tazewell, VA 24651	5.18 acres	6.4750%	0.8010%	1.7849%	0.2078%
<b><u>OIL &amp; GAS FEE OWNERSHIP</u></b>					
(1) Roscoe Deskins Rt. 1, Box 107 Raven, VA 24639	5.18 acres	6.4750%	0.8010%	1.7849%	0.2078%
<b>Tract No. 9, 3.18 Acre Tract</b>					
<b><u>COAL FEE OWNERSHIP</u></b>					
(1) Hugh MacRae Land Trust Tr. 17 P. O. Box 29 Tazewell, VA 24651	3.18 acres	3.9750%	0.4917%	1.0957%	0.1276%
<b><u>OIL &amp; GAS FEE OWNERSHIP</u></b>					
(1) Consolidation Coal Company P. O. Box 947 Bulefield, VA 24605	3.18 acres	3.9750%	0.4917%	1.0957%	0.1276%
<b>Tract No. 11, 0.12 Acre Tract</b>					
<b><u>COAL FEE OWNERSHIP</u></b>					
(1) Hugh MacRae Land Trust Tr. 17 P. O. Box 29 Tazewell, VA 24651	0.12 acres	0.1500%	0.0186%	0.0413%	0.0048%
<b><u>OIL &amp; GAS FEE OWNERSHIP</u></b>					
(1) Larry Stacy Rt. 1, Box 162 Raven, VA 24639	0.12 acres	0.1500%	0.0186%	0.0413%	0.0048%